

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

No. 3:23-CV-332-RJC-SCR

GERALD THOMAS MESCALL,)	
Plaintiff,)	
)	
v.)	DEFENDANT NATIONAL APARTMENT
)	ASSOCIATION'S REPLY TO PLAINTIFF'S
RENAISSANCE AT ANTIQUITY, <i>et. al.</i> ,)	RESPONSE TO MOTION TO DISMISS AND
)	ORDER TO SHOW CAUSE
Defendants.)	

COMES NOW Defendant National Apartment Association (hereinafter "Defendant NAA"), by and through its undersigned counsel submits this reply to Plaintiff's "Response to the Defendants Motion to Dismiss ..." (Doc. 18) (hereinafter "Plaintiff's Response"). In support thereof, Defendant NAA shows unto the Court as follows:

INTRODUCTION

On September 20, 2023, Plaintiff was ordered to take two (2) specific actions on or before October 20, 2023 – "Plaintiff shall file a response to the pending Motions to Dismiss and **SHOW CAUSE** why the Complaint should not be **DISMISSED** for failure to prosecute this action" (emphasis in original) (Doc 17., page 2). On October 17, 2023, Plaintiff filed Plaintiff's Response (Doc. 18).

Plaintiff's Response attempts to introduce twenty-three (23) new pictures, statements, summaries, etc (Doc. 18-1), while it fails to acknowledge a single aspect of Defendant NAA's Motion to Dismiss, nor does it provide any grounds or arguments related to the failure to timely respond in the first instance. Additionally, and worryingly, Plaintiff's Response appears to be written at least in part by Artificial Intelligence. There is an entire page dedicated to the usage of so called "AI" as well as a strange footnote that appears to warn Plaintiff that the "legal query"

should be reviewed by a legal professional, which is the exact type of warning prompt that an Artificial Intelligence would provide (Doc. 18, page 7). Between Plaintiff's use of Artificial Intelligence, and his continued attempts to act as illegal legal counsel to all of the listed plaintiffs, he clearly shows a disregard for the rules and procedures of the Court.

Defendant NAA has reviewed Renaissance Defendants' Reply (Doc. 19) and joins in their arguments as far as they address aspects of Plaintiff's Response that Plaintiff had not directed at Defendant NAA. As to the claims against Defendant NAA, Plaintiff's Response has failed to address any aspect of Defendant NAA's Motion to Dismiss (Doc. 7), and as such, Defendant NAA respectfully requests that this Court dismiss this action *with prejudice*.

ARGUMENT

I. PLAINTIFF'S RESPONSE FAILED TO SHOW CAUSE WHY HE FAILED TO RESPOND TO THE MOTIONS TO DISMISS

Plaintiff's Response only provides a cursory mention about the Court's Order that Plaintiff Show Cause. The entirety of the explanation appears to be "good faith as to why Mescalls' [sic] response is untimely with a heartfelt apology but nevertheless good cause" (Doc 18, page 2). This statement is included in an introductory section where Plaintiff appears to be laying out the structure for Plaintiff's Response, however at no point does he provide any details or explanations for his actions. This failure to timely prosecute the case, without a proper response to the Court's Order to Show Cause should result in the dismissal *with prejudice* of Plaintiff's claims.

II. PLAINTIFF'S RESPONSE FAILED TO ADDRESS DEFENDANT NAA'S MOTION AT ALL

Defendant NAA originally asserted that Plaintiff had failed to state a claim upon which relief may be granted as to Defendant NAA (Doc. 7). There is not a single word in Plaintiff's Response

that mentions Defendant NAA in any way, not as a new allegation nor as a clarification of the lack of allegations contained in Plaintiff's original Complaint (Doc. 1). Plaintiff's Response even includes twenty-three (23) new documents and pictures in an attempt to improperly supplement the cause of action, however nowhere in those pages is Defendant NAA ever referenced or mentioned (Doc. 18-1). The only reference to Defendant NAA in any document or filing before the Court, is the apartment lease contract (hereinafter "Lease") that Renaissance Defendants included as an exhibit (Doc. 12-1, pages 4-12). As can be clearly seen on such Lease, Defendant NAA shows the company branding on the top right of the Lease as their only tangential connection to the document. Defendant NAA is not listed as a party (Doc. 12-1, page 4), nor is Defendant NAA listed as a signatory to the Lease (Doc. 12-1, page 12). Defendant NAA explained this lack of any relation to Plaintiff's Complaint, and lack of any assertion by Plaintiff against Defendant NAA in Defendant NAA's Motion to Dismiss and accompanying Memorandum (Doc. 7 and Doc 8 respectively). Plaintiff's Response has failed to clarify or explain the lack of factual allegations against Defendant NAA, and therefore Plaintiff has still failed to state a plausible claim for which relief can be granted. Defendant NAA respectfully requests that the Court dismiss Plaintiff's claims *with prejudice* pursuant to Fed. R. Civ. P. 12(b)(6).

CONCLUSION

WHEREFORE, Defendant NAA respectfully requests that this Honorable Court enter an Order dismissing Plaintiff's claims *with prejudice* in their entirety.

This the 24th day of October, 2023.

BROWNLEE WHITLOW & PRAET, PLLC

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served a copy of the foregoing **DEFENDANT NATIONAL APARTMENT ASSOCIATION'S REPLY TO PLAINTIFF'S RESPONSE** upon the below-named persons, parties, and/or counsel cause by depositing a copy thereof, enclosed in a postpaid, properly addressed wrapper, addressed to each parties' address as is listed in the Summons filed by Plaintiff or to their attorney of record, in a post office or official depository under the exclusive care and custody of the United States Postal Service, as follows:

**Gerald Mescall
1721 Lovers Lawn Trace, Apt #404
Cornelius, NC 28032**

Respectfully submitted this the 24th day of October, 2023.

BROWNLEE WHITLOW & PRAET, PLLC

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